

CHAPTER Env-Sw 1600 SOLID WASTE FACILITY OPERATOR TRAINING AND CERTIFICATION

Statutory Authority: RSA 149-M:7

PART Env-Sw 1601 PURPOSE AND APPLICABILITY

Env-Sw 1601.01 Purpose. The purpose of the rules in this chapter is to implement a solid waste facility operator training and certification program, pursuant to RSA 149-M:6, XIII and RSA 149-M:9, VI, to assure that:

- (a) Solid waste facility operators are qualified to operate and maintain solid waste facilities properly; and
- (b) Solid waste facilities are operated at the highest attainable level of safety and efficiency thereby providing the greatest possible protection to the environment and to public health.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3301.01)

Env-Sw 1601.02 Applicability. The rules in this chapter shall apply to all individuals who operate facilities except individuals who operate a level I facility as defined by Env-Sw 1602.05.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3301.02)

PART Env-Sw 1602 DEFINITIONS

Env-Sw 1602.01 “Class I incinerator” means a device engineered to burn solid waste for volume reduction under controlled conditions.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3302.01)

Env-Sw 1602.02 “Class II incinerator” means a device engineered to burn solid waste for volume reduction under controlled conditions that recovers energy as a by-product.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3302.02)

Env-Sw 1602.03 “Class III incinerator” means a device engineered to burn infectious waste.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3302.03)

Env-Sw 1602.04 “Interim operator certification” means certification temporarily provided to an operator prior to obtaining certification by completing operator training and certification pursuant to Env-Sw 1603.05.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3302.04)

Env-Sw 1602.05 “Level I facility” means any of the following:

- (a) A permit-exempt facility;
- (b) A permit-by-notification facility having an active life of 90 days or less;
- (c) An emergency permit facility; and

- (d) A research and development permit facility.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3302.05)

Env-Sw 1602.06 “Level II facility” means a facility that is not a level I facility and is a monofill for only brush and stumps.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3302.06)

Env-Sw 1602.07 “Level III facility” means a facility that is not a level I facility and is any of the following:

- (a) A landfill that is permitted to receive 30 tons or less per day of waste on average annually;
- (b) A monofill that only receives scrap metal, construction and demolition debris or asbestos;
- (c) A transfer station, a recycling facility, or a composting facility which receives 30 tons or less of waste per day on average annually; or
- (d) A Class I incinerator.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3302.07)

Env-Sw 1602.08 “Level IV facility” means a facility that is not a level I facility and is:

- (a) A landfill which has a liner system;
- (b) A landfill which is permitted to accept more than 30 tons per day of waste on average annually;
- (c) An ash landfill;
- (d) A transfer station, a recycling facility or composting facility permitted to accept more than 30 tons of waste per day on average annually; or
- (e) A Class II or Class III incinerator.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3302.08)

Env-Sw 1602.09 “Operator training program” means professional or technical instruction, provided or sponsored by the department, which supplies the amount of solid waste management information required to pass an examination and obtain certification pursuant to Env-Sw 1603.05.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3302.09)

Env-Sw 1602.10 “Operator training update program” means an operator training program, provided or sponsored by the department, which supplies information and instruction to certified operators seeking certification renewal, said information and instruction being of a nature that refreshes and adds to the operator’s existing solid waste management knowledge.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3302.10)

Env-Sw 1602.11 “Responsible charge” means accountability for and performance of active daily on-site operation of a solid waste facility.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3302.11)

Env-Sw 1602.12 “Solid waste facility operator” or “operator” means an individual who is directly involved in solid waste management activities at a facility.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3302.12)

Env-Sw 1602.13 “Solid waste facility operator certification” means the status granted to a solid waste facility operator who demonstrates competency in his/her chosen occupation in accordance with the provisions of Env-Sw 1603. The term includes “operator certification.”

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3302.13)

PART Env-Sw 1603 PROVISIONS FOR OPERATOR CERTIFICATION

Env-Sw 1603.01 Operator Certification Required. Except as noted in Env-Sw 1601.02, all solid waste facility operators shall be certified by the department for the level of his/her responsibilities as specified by Env-Sw 1603.02.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3303.01)

Env-Sw 1603.02 Levels of Operator Certification. Operator certification shall be granted by level based on a range of responsibilities and duties as follows:

- (a) A certified level IV operator/manager shall be considered qualified to be in responsible charge at a level IV, III, II or I facility and may assume supervisory responsibilities pursuant to Env-Sw 1005.07(b)(2);
- (b) A certified level III advanced operator shall be considered qualified to be in responsible charge at a level III, II or I facility and may assume supervisory responsibilities pursuant to Env-Sw 1005.07(b)(2);
- (c) A level II certified operator shall be considered qualified to be in responsible charge at a level II or I facility but shall not assume supervisory responsibilities pursuant to Env-Sw 1005.07(b)(2); and
- (d) A certified level I attendant and a level I attendant-in-training may work at, but not be in responsible charge at any solid waste facility.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3303.02)

Env-Sw 1603.03 General Provisions for Obtaining Operator Certification.

- (a) An individual shall obtain operator certification for a specified level of operator, by:

- (1) Attending the department’s operator training program and passing an examination applicable to the level of certification sought, pursuant to Env-Sw 1603.05; or

(2) Receiving reciprocity pursuant to Env-Sw 1603.06.

(b) Prior to obtaining certification pursuant to either Env-Sw 1603.05 or Env-Sw 1603.06, interim operator certification for a specified level of operator shall be granted to a person pursuant to Env-Sw 1603.04.

(c) Certification shall be effective for one year from the date of issuance.

(d) Expiring operator certification shall be renewed pursuant to Env-Sw 1606.01.

(e) An individual may upgrade his/her operator certification to a higher level of operator by attending the operator training program and passing the examination applicable to the higher level.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3303.03)

Env-Sw 1603.04 Interim Operator Certification.

(a) Interim operator certification shall be automatically granted to applicants who are approved, in accordance with Env-Sw 1604.02(c)(2), to attend operator training.

(b) Interim operator certification shall be granted for the level of operator that formed the basis of the approved application.

(c) Interim operator certification shall be effective from the date an approved application is filed to the date that the applicant either obtains operator certification pursuant to Env-Sw 1603.05 or fails to attend operator training or take a required examination as scheduled, whichever is earlier.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3303.04)

Env-Sw 1603.05 Operator Certification by Training and Examination.

(a) On a semi-annual basis, the department shall administer an operator training program and written examination for operator certification.

(b) The written examination shall be structured to test the applicant's knowledge of the field of solid waste management for the level of certification sought.

(c) Individuals who wish to attend an operator training program and take the examination shall file an application pursuant to Env-Sw 1604.01.

(d) The application shall be processed in accordance with Env-Sw 1604.02.

(e) The examinations shall be graded on a pass/fail basis, with the passing score being 70% correct.

(f) An individual who attends an operator training program and passes the examination shall be certified for the level of operator for which the examination was specified.

(g) Operator certificates obtained by training and examination shall:

(1) Be issued in writing;

(2) Be effective for a period of one year from the date of issuance; and

(3) Be subject to renewal pursuant to the provisions of Env-Sw 1606.01.

(h) An individual who fails the certification examination may retake the examination, at any time convenient to both the applicant and the department and as often as necessary to obtain operator certification. However, after 2 unsuccessful attempts the applicant shall re-attend the operator training program prior to re-taking the examination.

(i) Each application for repeat operator training shall be made in accordance with Env-Sw 1604, except no fee shall be required.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3303.05)

Env-Sw 1603.06 Operator Certification by Reciprocity.

(a) An individual who has the following credentials shall be eligible for operator certification by reciprocity:

- (1) The individual holds operator certification through private industry or another state which was issued based on a training and examination program comparable in scope to the operator training and certification program provided by the department;
- (2) The individual has successfully completed training by the manufacturer of a specific type of facility for which the department does not offer training; or
- (3) For incineration facilities, the individual is certified pursuant to the American Society for Mechanical Engineers' "Standard for the Qualification and Certification of Resource Recovery Facility".

(b) An applicant for reciprocity pursuant to (a) above shall submit an application as specified in Env-Sw 1604.01.

(c) If the director determines that the applicant has the credentials for certification by reciprocity as specified in (a) above and meets all other certification requirements, the director shall issue operator certification.

(d) Operator certificates obtained by reciprocity shall:

- (1) Be issued in writing;
- (2) Be effective for a period of one year from the date of issuance; and
- (3) Be subject to renewal pursuant to the provisions of Env-Sw 1606.01.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3303.01)

PART Env-Sw 1604 APPLICATION REQUIREMENTS

Env-Sw 1604.01 Application Content and Format.

(a) An individual who wishes to obtain operator certification shall file a written application which includes the following information on and with such forms provided by the department:

- (1) Applicant's name, residential mailing address and telephone number;
- (2) Level of operator certification for which the application is being made, as specified in Env-Sw 1603;

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(3) Proof of qualifications for the desired level of operator certification based on the minimum qualifications specified in Env-Sw 1605, including the following:

a. Amount and type of applicable work experience related to or in the field of solid waste management, including for each facility where the applicant has been employed and the facility where the applicant is currently employed, if applicable:

1. Facility name and address;
2. Type of facility;
3. Name and title of supervisor;
4. Applicant's title;
5. Description of duties; and
6. Dates of employment; and

b. If education is being substituted for experience pursuant to Env-Sw 1605.02, a statement to identify the level of secondary and post-secondary education attained, with a letter from the registrar certifying college education;

(4) For applications to become certified by reciprocity pursuant to Env-Sw 1603.06:

- a. Copies of all currently valid operator certifications applicable to solid waste management;
- b. The name and mailing address of the certifying agency or company;
- c. A statement identifying whether the applicant obtained the operator certification(s) in b. above by exam; and

(5) A signed statement by the applicant attesting to the truth and accuracy of the information provided in the application.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3304.01)

Env-Sw 1604.02 Application Filing and Processing.

(a) The applicant shall submit a \$50.00 fee with his/her application for operator certification.

(b) The fee, if paid by check or money order, shall be made payable to "Treasurer, State of New Hampshire."

(c) Applications for operator training and examination shall be processed by the department as follows:

(1) The department shall review the application to determine whether all required information is submitted and whether the applicant meets the minimum qualifications required for the level of operator certification sought, as specified in Env-Sw 1605.01;

(2) If the application is complete and the minimum qualifications are met, the department shall approve the application, schedule the applicant to attend the next available operator training program and grant the applicant interim certification pursuant to Env-Sw 1603.04;

- (3) If the application is incomplete, the applicant shall be so notified in writing and provided the opportunity to correct the deficiencies;
 - (4) If the information provided in the application does not demonstrate that the applicant meets the minimum qualifications for operator certification, the applicant shall be so notified in writing and provided the opportunity to submit additional information to demonstrate the minimum qualifications are met or to revise the application for a level of operator certification that is compatible with the applicant's qualifications; and
 - (5) If an applicant fails to meet the minimum qualifications for operator certification:
 - a. The application shall be denied, meaning the applicant shall not be scheduled to attend operator training;
 - b. Interim operator certification shall not be granted; and
 - c. The applicant shall be so notified in writing with the reasons for denial stated.
- (d) Applications for reciprocity shall be processed by the department as follows:
- (1) The department shall review the application to determine whether all required information is submitted and whether the applicant meets the minimum qualifications required for the level of operator certification sought, as specified in Env-Sw 1605.01;
 - (2) If the application is complete and the minimum qualifications are met, the director shall determine whether the applicant has the credentials for reciprocity as specified in Env-Sw 1603.06(a);
 - (3) If the director determines that the applicant has the credentials for certification by reciprocity as specified in (a) above and meets all other certification requirements, the director shall issue operator certification;
 - (4) If the application is incomplete, the applicant shall be so notified in writing and provided the opportunity to correct the deficiencies;
 - (5) If the information provided in the application does not demonstrate that the applicant meets the minimum qualifications for operator certification, the applicant shall be so notified in writing and provided the opportunity to submit additional information to demonstrate the minimum qualifications are met or to revise the application for a level of operator certification that is compatible with the applicant's qualifications; and
 - (6) If the applicant fails to meet the minimum qualifications for operator certification or does not have the credentials for reciprocity:
 - a. Operator certification shall not be granted;
 - b. The applicant shall be so notified in writing with the reasons for denial stated; and
 - c. The applicant shall have the opportunity to obtain certification by training and examination.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3304.02)

PART Env-Sw 1605 MINIMUM QUALIFICATIONS

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Env-Sw 1605.01 Minimum Qualifications for Operator Certification. The following qualifications shall apply to all candidates for operator certification, whether by reciprocity or by training and examination:

(a) All levels of operators, except a level I attendant-in-training, shall be able to communicate in English; and

(b) Subject to Env-Sw 1605.02, the following education and experience credentials shall apply:

(1) A level IV operator/manager shall:

- a. Hold a high school diploma or general educational development credential (GED); and
- b. Have a minimum of 5 years of experience in a field related to waste management;

(2) A level III advanced operator shall:

- a. Hold a high school diploma or GED; and
- b. Have a minimum of 3 years of experience in a field related to waste management;

(3) A level II operator shall:

- a. Have completed the eighth grade; and
- b. Have a minimum of 2 years of experience in a field related to waste management;

(4) A level I attendant shall have one year of experience in a field related to waste management; and

(5) A level I attendant-in-training shall require no experience.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3305.01)

Env-Sw 1605.02 Substitutions to Operator Qualifications.

(a) By request of the applicant to the director, the following substitutions shall be made to the requirements of Env-Sw 1605.01, subject to the limitations identified in (c) below:

(1) One year of college education may be substituted for one year experience, up to a maximum of 4 years for level IV operators, 2 years for level III operators and one year for level II operators; and

(2) One year of experience may be substituted for one year of elementary or high school up to a maximum of one year.

(b) High school education shall not be substituted for experience.

(c) Education applied toward experience shall not also be applied toward the education requirement.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3305.02)

PART Env-Sw 1606 OPERATOR CERTIFICATION RENEWAL

Env-Sw 1606.01 Operator Certification Renewal Requirements.

(a) Any individual seeking operator certification renewal for the same level of operator shall:

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(1) Comply with Env-Sw 1606.02; and

(2) Submit a written application for renewal pursuant to Env-Sw 1606.03 and Env-Sw 1606.04.

(b) Any individual seeking operator certification renewal for a higher level of operator shall file an application pursuant to Env-Sw 1604 to attend operator training and take the applicable level of examination.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3306.01)

Env-Sw 1606.02 Continuing Education Requirements. Each applicant for renewal shall participate in an operator training update program prior to filing the application for operator certification renewal.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3306.02)

Env-Sw 1606.03 Renewal Applications.

(a) The application for operator certification renewal shall be submitted on and with such forms as provided by the department.

(b) The application shall include the following:

(1) Applicant's name, residential mailing address and telephone number;

(2) Identification of certification currently held, by certificate number, level of operator and date of issuance;

(3) Name, mailing address, permit number and telephone number of the facility(s) where the applicant is currently employed;

(4) The name and title of the applicant's supervisor or the facility manager;

(5) The applicant's current title or position, including a brief description of the duties required of the position;

(6) If the applicant's current operator certification was issued pursuant to the provisions for reciprocity in Env-Sw 1603.06 and the applicant has changed jobs since the issue date of the current operator certification, information to demonstrate that the provisions for reciprocity remain applicable to the applicant's current job duties;

(7) Proof that the applicant has attended an approved operator training update program since the issue date of the applicant's current operator certification, as required by Env-Sw 1606.03; and

(8) A signed statement by the applicant attesting to the truth and accuracy of the information provided in the application.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3306.03)

Env-Sw 1606.04 Application Filing and Processing.

(a) An application for renewal of operator certification pursuant to Env-Sw 1606.01(a) shall be filed within the time frame specified by (b) below.

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(b) To assure issuance of renewal before the applicant's current operator certification expires and to assure each renewal application contains current information, the application shall be submitted not less than 15 days nor more than 90 days before the expiration date of the applicant's current operator certification.

(c) The application shall be processed by the department in accordance with Env-Sw 1604.02, except:

(1) Applications received more than 90 days before the expiration date the applicant's current operator certification shall be returned to the applicant for resubmittal within the time frame specified by (b) above; and

(2) For applications received less than 15 days before the expiration date of the applicant's current operator certification, there shall be no guarantee of renewal prior to the expiration date of the current certification, and the provisions of RSA 541-A:30 shall apply.

(d) The operator applying for renewal shall submit, with the renewal application:

(1) A fee of \$50.00 if the application is received prior to the expiration of the certification; or

(2) A fee of \$75.00 if the application is received after certification has expired.

(e) Renewal fees, if paid by check or money order, shall be made payable to "Treasurer, State of New Hampshire."

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98;
ss by #8459, eff 10-28-05 (formerly Env-Wm 3306.04)

Env-Sw 1606.05 Renewal.

(a) The department shall renew an applicant's operator certification and provide written notice thereof to the applicant provided that:

(1) The application for renewal of operator certification contains all of the information required by Env-Sw 1606.03;

(2) The applicant has complied with Env-Sw 1606.02;

(3) The applicant has carried out his/her operator duties in accordance with the solid waste rules and the facility's permit; and

(4) If renewal is for certification originally obtained by reciprocity, the applicant's current job duties remain within the scope of the provisions for reciprocity.

(b) Renewal of operator certification shall be for the same level of operator.

(c) Operator certification renewal shall:

(1) Be issued in writing;

(2) Be effective for a period of one year from the date of issuance; and

(3) Be subject to renewal pursuant to the provisions of this part.

(d) If the applicant fails to meet the criteria for renewal as provided in (a) above, the applicant shall be so notified in writing.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3306.05)

PART Env-Sw 1607 REVOCATION AND SUSPENSION

Env-Sw 1607.01 Applicability. The rules in this part shall apply to actions by the department to revoke or suspend an operator's certification.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3307.01)

Env-Sw 1607.02 Procedure.

(a) Revocation or suspension of an operator's certification shall proceed in accordance with RSA 541-A:30.

(b) Certification shall be revoked if the department determines, following the procedures in RSA 541-A:30, that:

(1) Good cause as provided in Env-Sw 1607.03 exists; and

(2) There are no circumstances by which the operator can correct or eliminate the underlying problem.

(c) Certification shall be suspended if the department determines, following the procedures in RSA 541-A:30, that:

(1) Good cause as provided in Env-Sw 1607.03 exists; and

(2) Given time to do so, the operator can correct the underlying problem and be qualified to again hold certification for the same level in compliance with the requirements in this chapter.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3307.02)

Env-Sw 1607.03 Good Cause. The following shall provide good cause to suspend or revoke operator certification:

(a) The operator obtained certification through fraud, deceit or falsification, including:

(1) Submission of false or misleading information in the application;

(2) Cheating on the examination; and

(3) Falsifying attendance at operator training or update training;

(b) In the performance of her/his duties, the operator has knowingly violated the solid waste rules, conditions of a facility permit, or other rules or permits related to programs administered by the department; or

(c) The operator has failed to comply with an order of the department.

Source. #6619-B, eff 10-29-97; ss by #8459, eff 10-28-05
(formerly Env-Wm 3307.03)

Appendix

Rule Sections	Statute(s) Being Implemented
Env-Sw 1600	RSA 149-M:6, XIII; RSA 149-M:7, VI; RSA 149-M:9, VI